

w/drawn

AMENDMENT TO H.R. 7 OFFERED BY MS. RICHARDSON OF CALIFORNIA

At the end of Title III, add the following new sections:

SEC. ____ EFFICIENT ENVIRONMENTAL REVIEWS FOR PROJECT DECISIONMAKING.

(a) Programmatic Compliance- Section 139(b) of title 23, United States Code, is amended--

(1) in paragraph (2) by inserting ', and any requirements established under this section may be satisfied,' after 'exercised'; and

(2) by adding at the end the following:

'(3) PROGRAMMATIC APPROACHES- The Secretary may modify the procedures developed under this section to encourage programmatic approaches and strategies with respect to environmental programs and permits.'

(b) Designation of DOT Modal Administration To Serve as Lead Agency- Section 139(c)(1) of such title is amended by inserting ', acting through a single modal administration of the Department designated by the Secretary,' after 'Department of Transportation'.

(c) Project Initiation- Section 139(e) of such title is amended by adding at the end the following: 'The project sponsor may satisfy this requirement by submitting to the Secretary a draft notice for publication in the Federal Register announcing the preparation of an environmental impact statement for the project that contains the information required under this subsection.'

(d) Coordination Plan- Section 139(g)(1)(A) of such title is amended by striking 'project or category of projects' and inserting 'project, category of projects, or program of projects'.

(e) Guidelines- Section 139 of such title is amended by adding at the end the following:

'(m) Guidelines-

'(1) ISSUANCE- The Secretary shall issue guidelines to assist States and local governmental entities in assuming an increased role under this section in--

'(A) preparing environmental documents for projects under the National Environmental Policy Act of 1969; and

'(B) participating in agency consultation.

'(2) LIST OF STATE REPORTS- The guidelines issued under paragraph (1) shall contain a list of State reports that may be adopted or used by the Secretary (or the Secretary's designee) in satisfying requirements for projects under the National Environmental Policy Act of 1969.

'(3) SOVEREIGN IMMUNITY- The guidelines issued under paragraph (1) shall specify the maximum extent to which a State or local government can participate in the environmental review process for a project without being subject to the jurisdiction of Federal courts with respect to such participation.'

(f) Reciprocity Agreements-

(1) STUDY- The Secretary shall conduct a study on the feasibility of entering into reciprocity agreements with States to maximize State participation in the environmental review process for projects (as defined in section 139 of such title) and the potential benefits of such agreements in expediting project delivery.

(2) REPORT- The Secretary shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works and the Committee on Banking, Housing, and Urban Affairs of the Senate a report on the results of the study.

SEC. 4. SURFACE TRANSPORTATION PROJECT DELIVERY PROGRAM.

(a) Assumption of Responsibility-

(1) ADDITIONAL RESPONSIBILITY- Section 327(a)(2)(B)(ii)(I) of title 23, United States Code, is amended to read as follows:

‘(I) responsibility for any conformity determination (other than a conformity determination for an individual project) required under section 176 of the Clean Air Act (42 U.S.C. 7506); or’.

(2) HIGHWAY PROJECTS INVOLVING MORE THAN ONE DOT MODAL ADMINISTRATION- Section 327(a)(2) of such title is amended by adding at the end the following:

‘(F) HIGHWAY PROJECTS INVOLVING MORE THAN ONE DOT MODAL ADMINISTRATION-

‘(i) TREATMENT OF PROJECTS- For purposes of subparagraph (A), a project shall be treated as a ‘highway project’ if the Secretary determines that the Federal Highway Administration is the lead agency for the project.

‘(ii) ASSIGNMENT OF AUTHORITIES- In the case of a highway project that involves the Federal Highway Administration and another modal administration of the Department of Transportation, the authorities of the Secretary that may be assigned to a State under this subsection shall include the authorities of the Secretary that relate to the Federal Highway Administration and the other modal administration.’.

(b) State Participation-

(1) NUMBER OF PARTICIPATING STATES- Section 327(b)(1) of such title is amended to read as follows:

‘(1) SELECTION OF PARTICIPATING STATES-

‘(A) IN GENERAL- The Secretary may permit any State that meets the selection criteria contained in paragraph (4) to participate in the program.

‘(B) SPECIAL RULES- Any State participating in the program on September 30, 2009--

‘(i) shall be permitted by the Secretary to continue to participate in the program; and

‘(ii) shall not be required to submit an application under paragraph (2) in order to participate in the program.’.

(2) WRITTEN AGREEMENT- Section 327(c) of such title is amended to read as follows:

‘(c) Written Agreement-

‘(1) IN GENERAL- A written agreement under this section shall--

‘(A) be executed by the Governor or the top-ranking transportation official in the State who is charged with responsibility for highway construction;

‘(B) be in such form as the Secretary may prescribe;

‘(C) provide that the State--

‘(i) agrees to assume all or part of the responsibilities of the Secretary described in subsection (a);

‘(ii) agrees to carry out those responsibilities using the best available science;

‘(iii) expressly consents, on behalf of the State, to accept the jurisdiction of the Federal courts for the compliance, discharge, and enforcement of any responsibility of the Secretary assumed by the State;

`(iv) certifies that State laws (including regulations) are in effect that--

`(I) authorize the State to take the actions necessary to carry out the responsibilities being assumed; and

`(II) are comparable to section 552 of title 5, including providing that any decision regarding the public availability of a document under those State laws is reviewable by a court of competent jurisdiction; and

`(D) agrees to maintain the financial resources necessary to carry out the responsibilities being assumed.

`(2) EXCLUDED PROJECTS- A written agreement with a State under this section may include a list of projects in the State that are excluded from the program. The list shall be updated annually by mutual agreement between the Secretary and the State.

`(3) TERM- A written agreement with a State under this section shall--

`(A) have a term of not more than 5 years; and

`(B) be renewable.

`(4) USE OF PROJECT DELIVERY METHODS- A written agreement with a State under this section may not impose on the State a limitation on the use of a project delivery method if the limitation would not otherwise apply to the State under this title or another provision of law. In this paragraph, the term 'project delivery method' includes the authority of a State to acquire rights-of-way and conduct final design work for a project with State funds on an at-risk basis prior to completion of the environmental review process for the project.'

(3) AUDITS AND MONITORING- Section 327(g) of such title is amended--

(A) in the subsection heading by inserting 'and Monitoring' after 'Audits';

(B) by redesignating paragraph (2) as paragraph (3);

(C) by inserting after paragraph (1) the following:

`(2) MONITORING- If a State has been participating in the program pursuant to a written agreement under subsection (c) for a period of 10 consecutive years, the Secretary may monitor compliance by the State with the agreement instead of conducting audits under paragraph (1). If a State, while participating in the monitoring program under this section, repeatedly fails to comply with all aspects of the written agreement under subsection (c), the Secretary shall commence the auditing process. The Secretary shall develop procedures for conducting monitoring under this paragraph.'; and

(D) in paragraph (3) (as redesignated by subparagraph (B) of this paragraph) by inserting after 'paragraph (1)' the following: ', and the results of monitoring conducted under paragraph (2).'

(c) Report to Congress- Section 327(h) of such title is amended to read as follows:

`(h) Report to Congress-

`(1) IN GENERAL- Not later than 180 days after the date of enactment of the Jobs Through Environmental Safeguarding and Streamlining Act of 2011, and every 4 years thereafter, the Secretary shall make available to the public and submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works and the Committee on Banking, Housing, and Urban Affairs of the Senate a report on the results of the program.

`(2) CONTENTS- For each reporting period, the report shall contain, at a minimum, the following:

`(A) An assessment of whether delays were reduced and project delivery was enhanced as a result of the program.

`(B) An assessment of whether there were cost savings for States participating in the program and the Department of Transportation as a result of the program.

`(C) An assessment of whether environmental concerns were protected and considered in States participating in the program at a level consistent with nonparticipating States.

`(D) Recommendations for changes (if any) that could be made to enhance or improve the program.

`(E) An assessment of the impact and effectiveness of an environmental document quality control program of the transportation department of any State participating in the program.'.

(d) Elimination of Termination Date-

(1) IN GENERAL- Section 327(i)(1) of such title is repealed.

(2) CONFORMING AMENDMENTS- Chapter 3 of such title is amended--

(A) in section 327--

(i) in the section heading by striking `**pilot**'; and

(ii) in subsection (a) by striking `pilot'; and

(B) in the chapter analysis by striking the item relating to section 327 and inserting the following:

`327. Surface transportation project delivery program.'.